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BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED

March 22, 2016

Mr. John Bernardy, Plant Manager
Mammoth Pacific Geothermal Power
Plants MP-I, MP-II/G2, PLES-I/G3
Mammoth Pacific, L.P.
P.O. Box 1584
Mammoth Lakes, CA 93546

Mr. John Bernardy, Plant Manager
Mammoth Pacific Geothermal Power
Plants MP-I, MP-II/G2, PLES-I/G3
Mammoth Pacific, L.P.
Jct Old Hwy 395
Mammoth Lakes, CA 93546

Mr. John Bernardy, Plant Manager
Ormat Nevada, Inc.
c/o TRAC - THE REGISTERED AGENT
COMPANY
Registered Agent for Service of Process
on Ormat Nevada, Inc.
914 S St,
Sacramento, CA 95811

Mr. Isaac Angel, Chief Executive Officer
Mr. Gillon Back, Chairman of the Board of
Directors
Ormat Technologies, Inc.
c/o Randall Goldstein
110 Lafayette Cir., Ste. 200
Lafayette CA, 94549

Re: Notice of Intent to File Suit Under the Clean Air Act

Dear Mr. Bernardy, Mr. Angel, and Mr. Back:

Section 304(a) of the Federal Clean Air Act (the "Act" or "CAA") allows any person to bring a lawsuit in federal court against any person who violates an emission standard or limitation of the Act, 42 U.S.C. §7604(a), and against any person who proposes to construct or constructs any new or modified stationary source without a permit required under part C of subchapter I (Prevention of Significant Deterioration of Air Quality) and part D of subchapter I (Plan Requirements for Nonattainment Areas) of the Clean Air Act. 42 USC §7604(a)(3). Section 304(b)(1) of the Act, requires that citizens give notice of any citizen suit before filing suit. 42 U.S.C. § 7604(b)(1).

Accordingly, California residents Russell Covington and Randal Sipes, and Laborers International Union of North America, Local Union 783, and its members living in Mono County ("LIUNA") (collectively, "Noticing Parties") hereby provide notice, pursuant to section 304(b)(1) of the Act, 42 U.S.C. § 7604(b)(1), to the following persons in their capacities identified below:

- Mammoth Pacific Limited Partnership ("MPLP"), as the owner and operator of the facility(ies) that is (are) in violation of the Act, and as the violator of an "emission standard or limitation" under the Act, within the meaning of Section 304(a)(1) of the Act, 42 U.S.C. §7604(a)(1);
- Ormat Nevada, Inc. ("Ormat Nevada"), as the owner and operator of the facility(ies) that is (are) in violation of the Act, and as the violator of an "emission standard or limitation" under the Act, within the meaning of Section 304(a)(1) of the Act, 42 U.S.C. §7604(a)(1);
- Ormat Technologies, Inc. ("Ormat Technologies"), as the owner and operator of the facility(ies) that is (are) in violation of the Act, and as the violator of an "emission standard or limitation" under the Act, within the meaning of Section 304(a)(1) of the Act, 42 U.S.C. §7604(a)(1) (collectively, Ormat Technologies, MPLP and Ormat Nevada shall be referred to as "Ormat");
- United States Environmental Protection Agency ("EPA"); and
- State of California, as the state in which the violation occurred and will continue to occur.

The Noticing Parties intend to bring suit under the Act, after expiration of sixty (60) days from the date of this letter. The Noticing Parties brought a lawsuit against Ormat in the United States District Court for the Eastern District of California for other violations under the Clean Air Act on July 8, 2014. That lawsuit is still pending. After the expiration of the notice period, the Noticing Parties intend to amend their complaint to include the cause of action stated below.

I. Facility Background.

A. Mammoth Geothermal Development.

The Mammoth geothermal development complex ("Mammoth Complex") is a

geothermal development project located in the Mono-Long Valley Known Geothermal Resource Area. The Mammoth Complex consists of three existing geothermal plants located two miles east of Mammoth Lakes, California, within the Great Basin Valleys ("GBV") air basin. Ormat owns and operates all existing and planned geothermal plants at the Mammoth Complex. The existing facilities include: (1) Mammoth Pacific I Geothermal Facility East and Mammoth Pacific I Geothermal Facility West, together referred to as "MP-1" or "G1"; (2) Mammoth Pacific II Geothermal Facility, also known as "G2" or "MP-II"; (3) Pacific Lighting Energy Systems Unit I Geothermal Development Project, also known as "G3" or "PLES-I".

The facilities emit volatile organic compounds ("VOCs") in the form of fugitive motive fluid emissions of either n-pentane or isobutene, through valves, flanges, seals, and other unsealed joints in facility equipment. Both isobutane and n-pentane are considered reactive organic gases and VOCs (collectively, "VOCs") under state and federal air regulations. VOCs combine with nitrogen oxides to form ozone in the atmosphere. Ozone is a criteria air pollutant for which there is a national ambient air quality standard ("NAAQS").

According to the United States Environmental Protection Agency:

Breathing ground-level ozone can result in a number of health effects that are observed in broad segments of the population. Some of these effects include:

- Induction of respiratory symptoms
- Decrements in lung function
- Inflammation of airways

Respiratory symptoms can include:

- Coughing
- Throat irritation
- Pain, burning, or discomfort in the chest when taking a deep breath
- Chest tightness, wheezing, or shortness of breath

In addition to these effects, evidence from observational studies strongly indicates that higher daily ozone concentrations are associated with increased asthma attacks, increased hospital admissions, increased daily mortality, and other markers of morbidity. The consistency and coherence of the evidence for effects upon asthmatics suggests that ozone can make asthma symptoms worse

and can increase sensitivity to asthma triggers.
(<http://www.epa.gov/apti/ozonehealth/population.html>)

The Great Basin Air District fails to meet state ozone standards, and has adopted rules and regulations to reduce the emission of ozone-forming pollutants such as VOCs.

1. Mammoth Pacific I Geothermal Facility.

MP-I is composed of MP-I West and MP-I East, each 5 MWe power plants. It was the first geothermal facility at the Mammoth Complex. MP-I is located on private land owned by Ormat Nevada. GBUAPCD originally issued MP-I West and MP-I East separate permits. Authority to Construct (ATC) No. 325 was issued on December 11, 1987 and Permit to Operate (PTO) No. 325 was issued on May 16, 1988 for MP-I West. ATC No. 328 was issued on December 11, 1987, and PTO No. 328 was issued on May 16, 1988 for MP-I East. Per the permits, isobutene emissions for each unit was limited to 250 lbs/day.

On or around June 24, 2009, a single PTO was issued for the combined MP-I facility, PTO No. 601, which approved a combined emissions limit for MP-I of 500 lbs/day total VOC emissions. On or around February 8, 2010, GBUAPCD issued PTOs Nos. 602-03-09 and 601-03-09 changed the names of the facilities. MP-I West was renamed "G1 unit 100," and MP-I East was renamed "G1 unit 200." On or around May 1, 2013, GBUAPCD issued ATC Permit Nos. 601-04-13 and 602-04-73, which authorized facility equipment replacements to upgrade turbines and condensers, and approved a change in motive fluid. None of these permits implement BACT or require emissions offsets for MP-I.

2. Mammoth Pacific II Geothermal Facility and PLES I Geothermal Development Project.

The MP-II facility is a 12 MW facility also located on Ormat's private lands, just 1,200 feet east-northeast of the MP-I facility. MP-II operates under a Conditional Use Permit ("CUP") from the County. On or around July 26, 1988, GBUAPCD issued the first ATCs for the MP-II facility, ATC Nos. 329 and 583. The first PTO was issued in or around 1991. PTO No. 583. These permits limited point and fugitive isobutene emissions to 250 lbs/day. None of these permits implement BACT or require emissions offsets.

PLES-I is a 12 MW facilities which is a "twin" to the MP-II facility. PLES-I and its associated geothermal production and injection wells are located on adjacent public lands administered by the U.S. Forest Service. MP-II and PLES-I were permitted simultaneously by the Air District, but were issued separate permits. In 1989, GBUAPCD issued the original ATCs for PLES-I, ATCs Nos. 279 and 575. The original PTO for PLES-I was issued in 1991 and permitted 250 lbs/day total VOC emissions. None of these permits implement BACT or require emissions offsets.

On or around February 8, 2010, GBUAPCD issued PTOs Nos. 583-03-09 (MP-II) and 575-03-09 (PLES-I), approving a combined emissions limit for MP-II and PLES-I of 500 lbs/day total VOC emissions from combined point and fugitive isobutene emissions. These permits do not implement BACT or require emissions offsets.

II. Legal Background.

A. The Clean Air Act.

The CAA, 42 USC § 7401 et seq., establishes ambient air quality standards and permit requirements for both stationary and mobile sources. Under the Act, the United States Environmental Protection Agency ("EPA") has set standards known as National Ambient Air Quality Standards ("NAAQS") for pollutants considered to be key indicators of air quality, including ozone. Local air districts are free to adopt appropriate air quality measures to achieve and maintain the NAAQS, which measures become enforceable under the Act. See, e.g., Sections 113(b)(1), 304(a)(2) and 304(f) of the Act, 42 U.S.C. §§ 7413(b)(1), 7604(a)(2) & (f); *Her Majesty the Queen v. Detroit*, 874 F.2d 332, 335 (6th Cir. 1989); *American Lung Association v. Kean*, 871 F.2d 319, 322 (3d Cir. 1989); *United States v. Congoleum Corp.*, 635 F. Supp. 174, 177 (E.D. Pa. 1986). VOCs are precursors to ozone formation in the atmosphere.

The Clean Air Act authorizes citizen suits against any person who has violated or is in violation of an "emission standard or limitation." Section 304 of the Act, 42 U.S.C. § 7604(a)(1). The term "emission standard or limitation" is broadly defined to include "a schedule or timetable of compliance, emission limitation, standard of performance or emission standard;" and "any other standard, limitation, or schedule established under any permit issued pursuant to Title V [42 USCS §§ 7661 et seq.] or under any applicable State implementation plan approved by the Administrator, any permit term or condition, and any requirement to obtain a permit as a condition of operations." 42 U.S.C. § 7604(f).

B. GBUAPCD Rule 209-A.

GBUAPCD Rule 209-A prohibits the issuance of an authority to construct ("ATC") for any new stationary source or modification which results in emissions of 250 or more pounds per day of any pollutant for which there is national ambient air quality standards, or any precursor of such a pollutant, unless the facility complies with all provisions of Rule 209-A, including but not limited to implementing best available control technology ("BACT")¹ and requiring emissions offsets, and unless the facility complies with all other applicable District rules and regulations and with Sections 44300 (et. seq.) of the California Health and Safety Code. GBUAPCD Rule 209-A.A.1. VOCs are regulated as precursors to Ozone, for which there is a national ambient air quality standard.

GBUAPCD Rule 209-A was adopted by GBUAPCD on August 20, 1979, and federally approved by the EPA as part of California's SIP. 47 Fed. Reg. 26380 (June 18, 1982). Thus, GBUAPCD Rule 209-A is part of the Clean Air Act, and has been federally enforceable by citizen suit for all dates relevant to this matter. See, e.g., Sections 113(b)(1), 304(a)(2) and 304(f) of the Act, 42 U.S.C. §§ 7413(b)(1), 7604(a)(2) & (f); *Her Majesty the Queen v. Detroit*, 874 F.2d 332, 335 (6th Cir. 1989).

C. GBUAPCD Rule 209-B.

GBUAPCD Rule 209-B prohibits the issuance of a PTO for any new or modified stationary source or any portion thereof to which Rule 209-A applies unless the owner or operator of the source has obtained ATC granted pursuant to Rule 209-A; the Air Pollution Control Officer ("APCO") has determined that the source and any sources which provide offsets have been constructed and/or modified in compliance with GBUAPCD Rule 210 (Conditional Approval); the APCO has determined that any offsets required as a condition of the authority to construct will commence at the time of or prior to initial operations; and the APCO has determined that all conditions specified in the

¹ "Best Available Control Technology (BACT)" is defined as the more stringent of:

- a. The most effective emissions control technique which has been achieved in practice, for such category or class of source; or
- b. Any other emissions control technique found, after public hearing, by the Air Pollution Control Officer or the Air Resources Board to be technologically feasible and cost/effective for such class or category of sources or for a specific source; or
- c. The most effective emission limitation which the EPA certifies is contained in the implementation plan of any State approved under the Clean Air Act for such class or category or source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable. Rule 209-A.F.1

authority to construct have been or will likely be complied with by any dates specified. GBUAPCD Rule 209-B.A. GBUAPCD Rule 209-B was adopted by GBUAPCD on August 20, 1979, and federally approved by the EPA as part of California's SIP. 47 Fed. Reg. 26380 (June 18, 1982). Thus, GBUAPCD Rule 209-B is part of the Clean Air Act and violations of the rule are federally enforceable in a citizen suit enforcement action.

III. Ormat's Violations of the Clean Air Act.

A. Ormat Has Violated Clean Air Act §§ 304(a)(1) and 304(a)(3), 42 USC §§ 7604(a)(1) and 7604(a)(3) and GBUAPCD Rule 209-A and Rule 209-B by Proposing to Operate and by Operating the MP-I, MP-II, and PLES-I Facilities Without the Permits Required By Law.

Noticing Parties hereby give notice to Ormat that Noticing Parties intend to sue Ormat under Clean Air Act §304(a)(1) and 304(a)(3), 42 U.S.C. §7604(a)(1) and 7604(a)(3), Clean Air Act §111(e), 42 U.S.C. §7411(e), and GBUAPCD Rule 209-A for proposing to operate and operating a stationary source without complying with the requirements of the Clean Air Act. See Clean Air Act §173, 42 U.S.C. §7503.

Rule 209-A requires BACT and emissions offsets, among other requirements, for "all new stationary sources or modifications" which results in "a net increase in emissions of **250 or more pounds** during any day" of VOCs. Rule 209-A.B (emphasis added). The emissions levels of a stationary source are determined by its maximum design capacity "unless the applicant, as a condition to receiving permits to construct and operate such new source or modification, agrees to limitations on the operations of the new source or modification, in which event the limitations shall be used to establish the emissions from the new source or modification." Rule 209-A.C.1.

The VOC emissions of MP-I East, MP-I West, MP-II, and PLES-I each trigger requirements for BACT and offsetting under GBUAPCD Rule 209-A. The provision contained within each permit limiting emissions to 250 lb/day sets VOCs emissions of the plant at 250 lbs/day for purposes of GBUAPCD Rule 209 thereby triggering BACT and offsetting requirements under the rule.² (Note that the "250 or more pounds" language of GBUAPCD Rule 209 does not require emissions to exceed 250 lbs/day but only to reach 250 lbs/day to trigger these requirements).

² "The Power Plant isobutene total point and fugitive emissions **may not exceed** 250 lbs/day." ATC No. 325, ATC No. 328, ATC No. 329; "The combined units of the PLES I power plant shall be limited to 250 pounds per day of total point and fugitive isobutene emissions." ATC No. 279/575.

When the MP-I permits were combined in 2009 and the MP-II and PLES-I permits were combined in 2010 to allow for the combined VOC emissions of 500 lbs/day, the permits still failed to require BACT and offsets. Where emissions from each unit separately triggered BACT and offsetting requirements under GBUAPCD Rule 209-A, it must follow that such requirements continued to apply once the emissions were combined to a number double that of the threshold.

Under GBUAPCD Rule 209-A, a permit for a new or modified source must be denied if it results in an increase in emissions of, inter alia, VOCs of 250 or more lbs/day unless BACT and emissions offsets are employed at the source. GBUAPCD Rule 209-A.B.2.a. However, no ATCs issued to date for any of the units within the Mammoth Complex implement BACT or emissions offsets. Consequently, Ormat is in violation of the Clean Air Act for its failure to comply with these requirements since at least December 11, 1987.

Furthermore, under Rule 209-B, prior to receiving a PTO and beginning to operate MP-I, Ormat was required to obtain an ATC in compliance with GBUAPCD Rule 209-A and Clean Air Act §173(a), 42 U.S.C. §7503(a). Since the ATCs for MP-I, MP-II, and PLES-I are invalid, the PTOs were issued in violation of Rule 209-B. Ormat has failed to comply with these requirements since at least December 13, 1987.

IV. Identities of Violators.

The persons who in the course of doing business have committed the violations of the Clean Air Act alleged herein are the employees, officers, directors, and agents of MPLP, an owner and operator of the Ormat Complex geothermal facilities, including but not limited to Mr. John Bernardy, Plant Manager; Ormat Nevada, an owner and operator of the Ormat Complex geothermal facilities, the parent company of MPLP and a wholly owned subsidiary of Ormat Technologies, including but not limited to Mr. John Bernardy, Plant Manager; and Ormat Technologies, Inc., an owner and operator of the Ormat Complex geothermal facilities and the parent company of Ormat Nevada, including but not limited to Mr. Isaac Angel, Chief Executive Officer and Mr. Gillon Back, Chairman of the Board of Directors. Noticing Parties are informed and believe that, in August 2010, Ormat Technologies became the 100% owner of MPLP through acquisition, making it the sole owner of the Ormat companies noticed herein.

The Ormat defendants have been sent a copy of this Notice through registered mail, return receipt requested to their agents for service of process, presidents, chairmen of the board, and CEOs and, to the addresses and persons listed on the attached service list.

V. Location of Violations.

The location of the violations of the Clean Air Act are approximately as follows: MP-I is located approximately 1,200 feet northeast of the intersection of U.S. Highway 395 and California State Route 203 on 90 acres of private (fee) land in Mammoth Lakes, California 93546. MP-II is also located on Ormat's private lands, just 1,200 feet east-northeast of the MP-I power plant and adjacent to it, at Latitude/Longitude: 37.646265° / -118.909091°. PLES-I is located on adjacent public lands at Hwy 395 and State Rte 203, east of the town of Mammoth Lakes, at Latitude/Longitude: 37.645609° / -118.909428°.

VI. Time Period of Violations.

The violations alleged in this letter occurred each and every day since the ATCs and PTOs discussed above were issued. In particular, the violations have occurred each and every day during the 5-year statute of limitations period provided by the Clean Air Act. The violations have occurred each and every day since March 17, 2011, and are ongoing and continuing each day until cured. Each violation is subject to statutory penalties of \$37,500 per day per violation, and injunctive relief.

VII. Persons Receiving Notice of the Violations.

With this letter, the Noticing Parties give notice of Ormat's Clean Air Act violations to the persons and entities listed at the top of this Notice, and on the attached service list. Noticing Parties put Ormat on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, Noticing Parties put Ormat on notice that they intend to include those persons in this action.

VIII. Identity of Noticing Parties.

The entities and individuals giving this notice are:

- Russell Covington, P.O. Box 203, Bishop CA 93515, (760) 937-6211; and
- Randal Sipes, Jr., 77 Virginia Street, Rovanna CA, 93514, (760) 920-4570; and
- Laborers International Union of North America, Local Union 783, 104 West Benedict St., San Bernardino, CA. 92408, Alex Artiaga, Business Manager, (909) 884-5321.

IX. Legal Counsel for Noticing Party.

Notice of Intent to File Suit Under the Clean Air Act
March 22, 2016

Legal counsel representing the Noticing Parties in this matter is as follows:

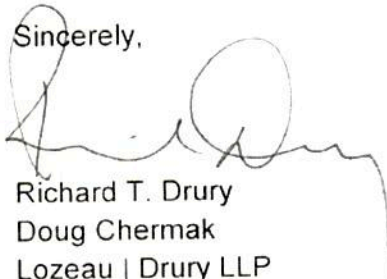
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X. Potential Resolution of Issues During the Sixty Day Period.

During the sixty (60) day notice period, the Noticing Parties are willing to discuss effective remedies for the violations of the Act at issue in this notice. If you wish to pursue such discussions in the absence of litigation, we suggest that you initiate them within the next 10 days with the legal counsel identified in Section IX, or with the persons identified as the Noticing Parties in Section VIII, so that the discussions may be completed before the end of the sixty (60) day notice period. We do not intend to delay the filing of a complaint in federal court if the discussions fail to resolve these matters within the sixty (60) day notice period, and we intend to seek all appropriate relief, including injunctive relief, penalties, and all costs of litigation, including, but not limited to, attorney's fees, expert witness fees and other costs.

We believe this notice provides information sufficient for you to determine the violations of the federal Clean Air Act at issue. If, however, you have any questions, please also feel free to contact us for clarification.

Sincerely,



Richard T. Drury
Doug Chermak
Lozeau | Drury LLP
Attorneys for Noticing Parties

CC: Steve Jones, Counsel for Ormat

Notice of Intent to File Suit Under the Clean Air Act
March 17, 2016

SERVICE LIST

(By Certified Mail, return Receipt Requested)

Ms. Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Mr. Jared Blumenfeld, Regional
Administrator
U.S. Environmental Protection Agency
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Ms. Mary D. Nichols, Chair of the Board
California Air Resources Board
1001 "I" Street
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Mr. Richard Corey, Executive Officer
California Air Resources Board
1001 "I" Street
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Governor Edmund G. Brown Jr.
c/o Office of the Governor
State of California
State Capitol, Suite 1173
Sacramento, CA 95814

Notice of Intent to File Suit Under the Clean Air Act
March 17, 2016

Loretta E. Lynch
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Ms. Kamala D. Harris
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